



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations, 30 CFR Part 44, govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2015-013-C.

Petitioner: Emerald Processing, LLC, 1144 Market Street, Suite 400, Wheeling, West Virginia 26003.

Mine: Peerless Rachel Mine, MSHA I.D. No. 46-09258, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

Modification Request: The petitioner requests a modification of the existing standard, which requires service brakes that act on each wheel of the vehicle, to permit the use of a Getman diesel grader to be operated underground with only rear wheel brakes. The petitioner states that:

(1) The diesel grader will be limited to a maximum speed of 10 miles per hour by physically blocking the higher gear ratios that provide for speeds exceeding 10 miles per hour.

(2) The miners that operate the grader will be trained to recognize the gear blocking device and its proper application and requirements.

(3) The miners that operate the grader will be trained to drop the grader blade in emergencies to provide additional stopping capability.

(4) Limiting the grader to low speeds, coupled with the availability of the grader blade for stopping in emergencies, will provide the appropriate stopping ability. The rear wheel brakes will be maintained in proper working condition at all times.

(5) The Getman diesel grader will meet all other applicable requirements of the Federal Mine Safety and Health Act of 1977 and MSHA's regulations.

(6) This petition is limited to the Getman diesel grader serial number 6732.

(7) Within 60 days after this petition becomes final, the petitioner will submit proposed revisions for their approved 30 CFR part 48 training plan to the District Manager. These revisions will specify initial and refresher training consistent with the terms and conditions stated in the petition.

Docket Number: M-2015-014-C.

Petitioner: XMV, Inc., 640 Clover Dew Dairy Road, Princeton, West Virginia 24740.

Mine: Mine No. 40, MSHA I.D. No. 46-09298, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification of the existing standard to permit, upon abandonment of the XMV Mine No. 40, completion of the following as an alternative method to the standard:

(1) The Army Corps of Engineers has documented that the existing groundwater table is only present below the proposed Pocahontas No. 9 Seam mine portals at the level of the Pocahontas No. 3 Seam mine void. This is due to extensive mining of the Pocahontas No. 3 Seam, which has fractured the overlying strata. The Pocahontas No. 3 Seam is +/- 300 feet below the Pocahontas No. 9 Seam. Based upon the site-specific data

provided, the petitioner proposes to seal the five up-dip mine entries with a concrete block seal and fill the remaining area between the mine seal and the surface with the most impervious and noncombustible material available. Entry No. 1 will be equipped with a “wet” seal that will extrude from the block seal outward to the edge of the Pocahontas No. 9 Seam mine bench and entries Nos. 2, 3, 4 and 5 will be constructed as “dry” seals. Although the possibility of impounding water in the mine void is unlikely because the refuse area will be up-dip of the abandoned mine and above the Pocahontas No. 3 Seam, a wet seal will be used as a preventive measure.

(2) To minimize the possibility of ignition and burning, in addition to placing the most impervious and noncombustible material within limits of the concrete seals and the surface, the most impervious and noncombustible material will be used to encapsulate the exposed coal seam along the existing highwall with a minimum of 4 feet of cover.

(3) Once the coal seam and mine entries are sealed and encapsulated, the placement of dry, screened refuse material from the underlying XMV Mine No. 42 – Pocahontas No. 6 Seam mine will be used to backfill and eliminate the existing highwall.

The petitioner asserts that as indicated in the information and designs provided, the encapsulation of the entire coal seam, the location of the proposed refuse area up-dip of the underground mine void, and the absence of any groundwater discharge, the proposed plan limits the potential for burning of the coal seam or impounding water within the mine void and will provide no less than the same measure of protection or greater than that afforded by the standard.

Dated: July 13, 2015.

Sheila McConnell,
Acting Director,
Office of Standards, Regulations, and Variances.

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